

MAR 03 2009

**Sim, Lowman, Ashton & McKay LLP**

*Barristers & Solicitors*

**Sim & McBurney**

*Patent & Trade Mark Agents*

6<sup>th</sup> Floor, 330 University Avenue  
Toronto, Ontario, Canada M5G 1R7

**Tel. (416) 595-1155 • Fax (416) 595-1163**

**DATE:** March 2, 2009

**Application No:** 10/517,384

**Our Ref:** 11788-13 MIS:jb

| TO:  | FAX #          | PHONE # |
|--|----------------|---------|
| US Patent and Trademarks Office<br>Mail Stop _ | (571) 273-8300 |         |

**Total Number of Pages (Including This Page):** 5

**FROM:** Mich  el I. Stewart / 416-849-8400

**COMMENTS:**

We are transmitting from a Xerox Telecopier 7033, 7020 or Workcentre Pro 745 – Group 3 which are compatible with Groups 1 and 2 and fully automatic on a 24 hour basis. If any part of this message is received poorly or missing please call the telecopier operator immediately at (416) 595-1155.

### Confidentiality Notice

This message is intended only for the use of the individual person or entity to which it is addresses and may contain information that is privileged and confidential. If the reader of this message is not the intended recipient or the agent responsible for delivering the message to the intended recipient, you are hereby notified that any disclosing, copying, distributing or the taking of any action in reliance on the contents of this communication is prohibited. If you have received this communication in error, please notify us immediately by telephone (call collect) and return the original message to us at the above address via the postal service. Thank you.

MAR 03 2009

PTO/SB/17 (10-08)

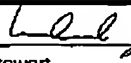
Approved for use through 06/30/2010. OMB 0851-0032  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

|   |      |                          |                     |                 |
|---|------|--------------------------|---------------------|-----------------|
| Effective on 12/08/2004.<br>Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).<br><b>FEE TRANSMITTAL</b><br><b>For FY 2009</b> |      | <b>Complete if Known</b> |                     |                 |
| <input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27  |      | Application Number       | 10/517,384          |                 |
|   |      | Filing Date              | January 11, 2006    |                 |
|   |      | First Named Inventor     | Magdy Younes        |                 |
|   |      | Examiner Name            |                     |                 |
|   |      | Art Unit                 |                     |                 |
| TOTAL AMOUNT OF PAYMENT   | (\$) | 1,990.00                 | Attorney Docket No. | 11788-13 MIS:jb |

|  |  |
|--|--|
| <b>METHOD OF PAYMENT (check all that apply)</b>  |  |
| <input type="checkbox"/> Check <input type="checkbox"/> Credit Card <input type="checkbox"/> Money Order <input type="checkbox"/> None <input type="checkbox"/> Other (please identify): _____ |  |
| <input checked="" type="checkbox"/> Deposit Account Deposit Account Number: <u>192253</u> Deposit Account Name: <u>Sim &amp; McBurney</u>  |  |
| For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)   |  |
| <input checked="" type="checkbox"/> Charge fee(s) indicated below  |  |
| <input type="checkbox"/> Charge fee(s) indicated below, except for the filing fee  |  |
| <input checked="" type="checkbox"/> Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17   |  |
| <input type="checkbox"/> Credit any overpayments   |  |
| WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.               |  |

|   |                     |   |                     |                      |                                  |                       |                       |
|---|---------------------|---|---------------------|----------------------|----------------------------------|-----------------------|-----------------------|
| <b>FEE CALCULATION</b>  |                     |   |                     |                      |                                  |                       |                       |
| <b>1. BASIC FILING, SEARCH, AND EXAMINATION FEES</b>  |                     |   |                     |                      |                                  |                       |                       |
|   | <b>FILING FEES</b>  |   | <b>SEARCH FEES</b>  |                      | <b>EXAMINATION FEES</b>          |                       |                       |
|   | <b>Small Entity</b> |   | <b>Small Entity</b> |                      | <b>Small Entity</b>              |                       |                       |
| <b>Application Type</b>   | <b>Fee (\$)</b>     | <b>Fee (\$)</b>   | <b>Fee (\$)</b>     | <b>Fee (\$)</b>      | <b>Fee (\$)</b>                  | <b>Fee (\$)</b>       | <b>Fees Paid (\$)</b> |
| Utility   | 330                 | 165   | 540                 | 270                  | 220                              | 110                   |                       |
| Design  | 220                 | 110   | 100                 | 50                   | 140                              | 70                    |                       |
| Plant   | 220                 | 110   | 330                 | 165                  | 170                              | 85                    |                       |
| Reissue   | 330                 | 165   | 540                 | 270                  | 650                              | 325                   |                       |
| Provisional   | 220                 | 110   | 0                   | 0                    | 0                                | 0                     |                       |
| <b>2. EXCESS CLAIM FEES</b>   |                     |   |                     |                      |                                  |                       |                       |
| <b>Fee Description</b>  |                     |   |                     |                      |                                  | <b>Small Entity</b>   |                       |
|   |                     |   |                     |                      |                                  | <b>Fee (\$)</b>       | <b>Fee (\$)</b>       |
| Each claim over 20 (including Reissues)   |                     |   |                     |                      |                                  | 52                    | 26                    |
| Each independent claim over 3 (including Reissues)  |                     |   |                     |                      |                                  | 220                   | 110                   |
| Multiple dependent claims   |                     |   |                     |                      |                                  | 390                   | 195                   |
| <b>Total Claims</b>   |                     | <b>Extra Claims</b>                                     | <b>Fee (\$)</b>     | <b>Fee Paid (\$)</b> | <b>Multiple Dependent Claims</b> |                       |                       |
| - 20 or HP =  |                     | x   |                     | =                    | <b>Fee (\$)</b>                  |                       | <b>Fee Paid (\$)</b>  |
| HP = highest number of total claims paid for, if greater than 20.   |                     |   |                     |                      |                                  |                       |                       |
| <b>Indep. Claims</b>  |                     | <b>Extra Claims</b>                                     | <b>Fee (\$)</b>     | <b>Fee Paid (\$)</b> |                                  |                       |                       |
| - 3 or HP =   |                     | x   |                     | =                    |                                  |                       |                       |
| HP = highest number of independent claims paid for, if greater than 3.  |                     |   |                     |                      |                                  |                       |                       |
| <b>3. APPLICATION SIZE FEE</b>  |                     |   |                     |                      |                                  |                       |                       |
| If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$270 (\$135 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s). |                     |   |                     |                      |                                  |                       |                       |
| <b>Total Sheets</b>   | <b>Extra Sheets</b> | <b>Number of each additional 50 or fraction thereof</b> | <b>Fee (\$)</b>     | <b>Fee Paid (\$)</b> |                                  |                       |                       |
| - 100 =   | / 50 =              | (round up to a whole number) x                          |                     | =                    |                                  |                       |                       |
| <b>4. OTHER FEE(S)</b>  |                     |   |                     |                      |                                  |                       |                       |
| Non-English Specification, \$130 fee (no small entity discount)   |                     |   |                     |                      |                                  | <b>Fees Paid (\$)</b> |                       |
| Other (e.g., late filing surcharge): <u>Corrective Basic National Filing Fee and Surcharge Fee</u>  |                     |   |                     |                      |                                  | <u>\$1990.00</u>      |                       |

|                     |   |   |
|---------------------|---|---|
| <b>SUBMITTED BY</b> |   |   |
| Signature           |  | Registration No. 24,973<br>(Attorney/Agent) |
| Name (Print/Type)   | Michael I. Stewart  | Telephone 416-849-8400                      |
|                     |   | Date March 2, 2009                          |

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

AF 13 Rec'd PCT/PTO 03 MAR 2009

RECEIVED  
CENTRAL FAX CENTER

T-371 P.002 MAR 03 2009

PTO/30/21 (01-00)

Approved for USA through 07/28/2009. OMB 0551-0031

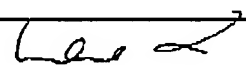
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no person is required to respond to a collection of information unless it displays a valid OMB control number.

|   |                      |                        |                 |
|---|----------------------|------------------------|-----------------|
| <b>TRANSMITTAL FORM</b><br><br>(to be used for all correspondence after initial filing) | Application Number   | 10/517,384             |                 |
|   | Filing Date          | January 11, 2008       |                 |
|   | First Named Inventor | Maydy Yumier           |                 |
|   | Art Unit             |                        |                 |
|   | Examiner Name        |                        |                 |
| Total Number of Pages in This Submission  | 4                    | Attorney Docket Number | 11788-13 MIS:jb |

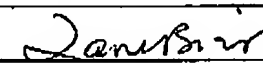
| ENCLOSURES (Check all that apply)  |  |  |
|--|--|--|
| <input checked="" type="checkbox"/> Fee Transmittal Form<br><input type="checkbox"/> Fee Attached<br><input type="checkbox"/> Amendment/Reply<br><input type="checkbox"/> After Final<br><input type="checkbox"/> Affidavits/declaration(s)<br><input type="checkbox"/> Extension of Time Request<br><input type="checkbox"/> Express Abandonment Request<br><input type="checkbox"/> Information Disclosure Statement<br><input type="checkbox"/> Certified Copy of Priority Document(s)<br><input type="checkbox"/> Reply to Missing Parts/Incomplete Application<br><input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s)<br><input type="checkbox"/> Licensing-related Papers<br><input type="checkbox"/> Petition<br><input type="checkbox"/> Petition to Convert to a Provisional Application<br><input type="checkbox"/> Power of Attorney, Revocation<br><input type="checkbox"/> Change of Correspondence Address<br><input type="checkbox"/> Terminal Disclaimer<br><input type="checkbox"/> Request for Refund<br><input type="checkbox"/> CD, Number of CD(s) _____<br><input type="checkbox"/> Landscape Table on CD | <input type="checkbox"/> After Allowance Communication to TC<br><input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences<br><input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)<br><input type="checkbox"/> Proprietary Information<br><input type="checkbox"/> Status Letter<br><input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):<br>Covering letter: Deficiency of Basic National, Excess Claims, Extra Independent Claims and Multiple Claims Fees and Surcharge Fee |
| Remarks  |  |  |

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

|              |   |          |        |
|--------------|---|----------|--------|
| Firm Name    | Sim & McBurney  |          |        |
| Signature    |  |          |        |
| Printed name | Michael I. Stewart  |          |        |
| Date         | March 2, 2009   | Reg. No. | 24,973 |

## CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

|                       |   |      |               |
|-----------------------|---|------|---------------|
| Signature             |  |      |               |
| Typed or printed name | Janet Bist  | Date | March 2, 2009 |

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450

MAR 03 2009

# Sim & McBurney

Patent and Trade Mark Agents

330 University Avenue  
6th floor  
Toronto, Canada  
M5G 1R7

Telephone (416) 595-1155  
Fax (416) 595-1163

MICHAEL I. STEWART, B.Sc. (Hons.)  
TONI POLSON ASHTON, LL.B.  
KENNETH D. MCKAY, LL.B.  
TIMOTHY M. LOWMAN, LL.B.  
STEPHEN M. LANE, B.A. SC.  
DAVID A. RUSTON, B.Sc. (EE)\*  
LOLA A. BAKTOSZEWICZ, Ph.D.  
ANDREW R.O. JONES, LL.B.  
KIMBERLY A. MCMAHON, Ph.D.  
MATTHEW D. POWELL, B.Sc. (EE)\*

PATRICK J. COTTER, LL.B.  
JAIDIP CHATTERJEE, Ph.D.  
MARLYN MONFISTON, LL.B.  
LORRAINE M. FLECK, M.Sc.  
A. SUMMI CHEUNG, B.Eng. (EPI)\*

SENIOR CONSULTANTS  
PETER W. MCBURNEY, B.Sc.\*  
BRENDA L. BOARDMAN, B.A.  
JOHN H. WOODLEY (1947-2008)  
PATRICIA A. KAE, Ph.D.

TECHNICAL ASSISTANTS  
RUPINDER HANS, J.D.  
GENEVIEVE P. RICHARD, LL.B.  
ERICA L. LOWTHERS, Ph.D.  
EVANGELLOS W. VEKRISS, Ph.D.

\*Professional Engineer

Please Quote

Our ref. 11788-13 MIS:jb

Your ref. 10/517,384

Writer's Direct Dial: 416-849-8400

E-mail: [mistewart@sim-mcburney.com](mailto:mistewart@sim-mcburney.com)

March 2, 2009

Via Facsimile (571) 273-8300

Mail Stop -  
Commissioner of Patents  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314  
U.S.A.

Dear Sir:

**RE: US Patent Application 10/517,384**  
**Applicant: Magdy Younes**  
**Title: METHOD AND DEVICE FOR MONITORING AND**  
**IMPROVING PATIENT-VENTILATOR INTERACTION**

The Basic National, Excess Claims, Extra Independent claims and Multiple Dependent Claims fees were paid at the Small Entity rate at the time of filing of this application, namely December 8, 2004. The applicant is a Large Entity and the Small Entity fee was paid in error.

Pursuant to CFR 1.28(c), enclosed is our deposit account payment of the difference between the large entity rate and the small entity rate and the surcharge fee. Pursuant to 37 CFR 1.27, the following itemization is provided:

- (A) Type of Fee erroneously paid: Basic National, Excess Claims, Extra Independent Claims and Multiple Claims Fees
- (B) The Amount of Basic National, Excess Claims, Extra Independent Claims and Multiple Dependent Claims fees actually paid and when:  
Fee: \$ 1,830.00 Date: December 8, 2004
- (C) The deficiency owed amount:  
Fee: \$ 1,869.00

RECEIVED  
CENTRAL FAX CENTER

MAR 03 2009

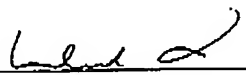
- 2 -

(D) The total deficiency owed amount including surcharge fee:

Fee: \$ 1,999.00

It is requested that the PTO confirm that the payment of the Basic National, Excess Claims, Extra Independent Claims and Multiple Dependent Claims fees as a small entity is excused and that the deficiency payment has been accepted, along with the surcharge fee.

Yours very truly,

  
\_\_\_\_\_  
Michael I. Stewart  
Reg. No. 24,973

Enclosure(s)

MAR 03 2009

## Sim & McBurney

Patent and Trade Mark Agents

330 University Avenue  
6th floor  
Toronto, Canada  
M5G 1R7

Telephone (416) 595-1155  
Fax (416) 595-1163

MICHAEL I. STEWART, B.Sc. (Hons.)  
TONI POLSON ASHTON, LL.B.  
KENNETH D. MCKAY, LL.B.  
TIMOTHY M. LOWMAN, LL.B.  
STEPHEN M. LANE, B.A. SC.  
DAVID A. RUSTON, B.Sc. (EE)\*  
LOLA A. BARTOSZEWICZ, Ph.D.  
ANDREW R.O. JONES, LL.B.  
KIMBERLY A. McMANUS, M.D.  
MATTHEW D. POWELL, B.Sc. (EE)\*

PATRICK J. COTTER, LL.B.  
JALIDIP CHATTERJEE, Ph.D.  
MARLYE MONFISTON, LL.B.  
LORRAINE M. FLECK, M.Sc.  
A. SUMEI CHEUNG, B.Eng. (EPI)\*

SENIOR CONSULTANTS  
PETER W. MCBURNEY, B.Sc.\*  
BRENDA L. BOARDMAN, B.A.  
JOHN H. WOODLEY (1947-2008)  
PATRICIA A. KAE, Ph.D.

TECHNICAL ASSISTANTS  
GENEVIEVE P. RICHARD, LL.B.  
ERICA L. LOWMEYER, Ph.D.  
FRANCIS W. VERRILL, Ph.D.

\*Professional Engineer

Please Quote

Our ref. 11788-13 MIS:jb

Your ref. 10/517,384

Writer's Direct Dial: 416-849-8400

E-mail: [mistewart@sim-mcburney.com](mailto:mistewart@sim-mcburney.com)

March 2, 2009

Via Facsimile (571) 273-8300

Mail Stop -  
Commissioner of Patents  
Randolph Building  
401 Dulaney Street  
Alexandria, VA 22314  
U.S.A.

Dear Sir:

RE: US Patent Application 10/517,384  
Applicant: Magdy Younes  
Title: METHOD AND DEVICE FOR MONITORING AND  
IMPROVING PATIENT-VENTILATOR INTERACTION

The Basic National, Excess Claims, Extra Independent claims and Multiple Dependent Claims fees were paid at the Small Entity rate at the time of filing of this application, namely December 8, 2004. The applicant is a Large Entity and the Small Entity fee was paid in error.

Pursuant to CFR 1.28(c), enclosed is our deposit account payment of the difference between the large entity rate and the small entity rate and the surcharge fee. Pursuant to 37 CFR 1.27, the following itemization is provided:

- (A) Type of Fee erroneously paid: Basic National, Excess Claims, Extra Independent Claims and Multiple Claims Fees
- (B) The Amount of Basic National, Excess Claims, Extra Independent Claims and Multiple Dependent Claims fees actually paid and when:  
Fee: \$ 1,830.00 Date: December 8, 2004
- (C) The deficiency owed amount:  
Fee: \$ 1,869.00

BEST AVAILABLE COPY